

CHAPTER 2 – INITIAL ASSISTANCE VISITS

2.1 PURPOSE AND OVERVIEW

The Initial Assistance Visit (IAV) is an offer for an on-site visit with appropriate representative(s) of a facility (defined by relevant program's Operations Manual) that has never had a visit or inspection from the department before. The IAV is intended to improve understanding of the permit and environmental requirements, to enhance environmental compliance with the regulations that apply to the permittee's unique operations, and to provide resources for assistance.

The IAV differs from a compliance inspection in that it is voluntary, always scheduled, focusing on understanding the permit rather than solely checking for compliance.

The IAV inspector goes over the permit requirements with the facility operator, views operations and provides feedback.

The IAV inspector provides relevant guidance documents and other helpful information to the permittee. Training about required sampling, recordkeeping, operations, and maintenance should be included if appropriate. Acceptable reduced regulatory requirements may be discussed. Areas where the facility has good performance as well as areas of concern are discussed.

No enforcement consequences will be initiated during an IAV unless the facility has violations that are acute. An acute violation is one immediately or imminently harmful to the environment or public health. Significant nonacute violations, as defined by the programs, are to be noted on the IAV form and explained to the operator.

2.2 REGULATORY TERMS AND DEFINITIONS

Application

- Formal request (written or online) for authorization to conduct a regulated activity.

Permit

- The department's authorization in response to an application to conduct a regulated activity. This term is used broadly for these definitions and includes permits, certifications, licenses and registrations.

Initial Assistance Visit

- A visit to permitted facilities that have never had a visit or inspection from the department, to provide regulatory information after the permit has been issued, to protect the environment, enhance compliance and promote better understanding of the permit requirements. This includes newly permitted facilities and those permitted facilities that have never had an inspection or compliance assistance visit.

Chapter 2 – Initial Assistance Visits**Compliance or Technical Assistance**

- This can be done at any time and is the responsibility of all staff.
- It is the aid or help given to achieve compliance with applicable laws. Assistance can be provided by a variety of means: one-on-one, through external partners, by distributing information, etc.
- Assistance is specific to what a facility wants or must do. It is to help them implement the regulations/permit/law at their facility.
- This assistance can also encourage the facility to go beyond simple compliance to enhance environmental protection.

Inspection

- An on-site assessment of compliance with applicable regulations. The visit can be announced or not. Exceptions to the on-site component are financial assurance or record reviews.
- Inspections can be comprehensive or abbreviated, but involve a review of the operations and records of a facility.
- Inspections are a critical evaluation of a facility. Taking photos and sampling can be part of an inspection.
- The focus of inspections is to maintain or improve environmental quality.
- Some form of feedback is provided. Feedback can be verbal or written that day, or through a follow-up report (the sooner the better).

Compliance

- A regulated entity's meeting or conformity with applicable regulations, permit conditions and laws.

Noncompliance

- Deviation from or failure to meet regulatory requirements. Noncompliance can range from single incidents to chronic behavior. Non-compliance results in a negative impact to the environment or the inability to assess impact to the environment.
- There are three types of noncompliance:

Minor or moderate noncompliance {such as Class 2 violations (HWP) or not significant violations (WP)} indicates a violation of regulatory requirements and a need for improvement. Each program may either define what minor or moderate noncompliance is, or by default include everything as minor or moderate noncompliance that is not a significant noncompliance item. Each program also defines the follow-up that can range from no further action to a repeat inspection. The actions will have a defined term, so that the violations are either addressed or, if not, elevated to a Notice of Violation due to the chronic nature of violation or recalcitrance on the part of the facility.

For minor or moderate noncompliance, the facility is not complying with regulatory requirements, however neither the health and safety of Missourians nor Missouri's environment are negatively impacted to a significant degree.

Tools that can be used to document minor or moderate noncompliance include letters of warning, simple letters, checklists, inspection reports or Illegal Dumping Investigation Reports.

Chapter 2 – Initial Assistance Visits

Significant noncompliance {such as high priority violations or Class 1 (HWP)} reflects a violation of regulatory requirements where either the health and safety of Missourians or Missouri's environment is or will be negatively impacted to a significant degree.

If minor or moderate noncompliance situations become chronic, excessive in number, due to recalcitrance on the part of the facility, or are immediate or imminently harmful, those together can indicate significant noncompliance.

Issuance of a NOV can result only from a case of significant noncompliance. There is always follow-up for significant noncompliance and coordination between the regional office and environmental program(s). Each program will define significant noncompliance and the possible follow-up.

Acute noncompliance reflects those acute violations that are immediately or imminently harmful to the environmental or human health. They are to be defined by the appropriate environmental program. All acute violations also reflect significant noncompliance. If an acute violation is found during an Initial Assistance Visit, the inspector informs the facility of the violation, the IAV is ended, and the inspector conducts a compliance inspection issuing an NOV for the acute violation.

Conference, conciliation, persuasion (CCP)

- Negotiated solutions or actions taken to correct noncompliance in cooperation with the permittee.
- CCP is a mandate of several environmental laws.
- CCP starts as soon as a violation is found and may be as simple as a verbal explanation of expectations and how to meet those expectations.
- Either the regional offices or the program can do CCP at any time.

Violation

- An item that must be fixed. A violation reflects noncompliance.

Chapter 2 – Initial Assistance Visits

Notice of Violation (NOV)

- A written notification of significant noncompliance to document and to address remedies for one or more of the following:
 - Threats to human health or the environment
 - Noncompliance with federal or state requirements
 - Failure to resolve minor or moderate noncompliance that is chronic, excessive in number or due to recalcitrance on the part of the facility

Enforcement

- A formal action taken such as an NOV, administrative order, abatement order, settlement agreement or consent or court filing to direct compliance
- In most situations, enforcement begins with an NOV. The regional offices often initiate enforcement by issuance of an NOV. The central office program is in charge of all enforcement.
- With enforcement, a negotiated solution with a defined course of action is developed.
- Enforcement often includes monetary penalties, a cease and desist order, or a natural resource damages assessment.
- **With serious noncompliance or egregious actions, the enforcement timeline can become greatly shortened.**

Enforcement Review Board

- The internal department panel that assures consistency for administrative orders or referrals to the judicial process. The panel should use specific justifying factors, history, condition, threat or damage to human health or the environment as criteria to continue pursuing enforcement. The inspector and case manager involved should be included in discussions. The Board and department director shall receive a summary of all NOV's issued each month from each region.

Referral

- Submittal of an enforcement case to the judicial process

2.3 CONDUCTING THE INITIAL ASSISTANCE VISIT

IAV Notification Process

Staff will call the permittee to set up a date and time for the IAV. If the permittee declines, document the decline in the Permit Tracking System (PTS). The guideline is to try to contact the facility three times over five to 10 days, but be flexible if someone is on vacation, etc.

Cold calls are allowed to effectively use available time and travel opportunities. However, these should be the exception not the routine.

Things to Address During the Phone Call Offering the IAV

- Introduce yourself (name, with Department of Natural Resources _____ Regional Office or _____ Program)
- I am following up to be sure that you have received the _____ (permit, etc. name).
 - If yes...continue with call.
 - If no, suggest you can send a copy, then continue with the call.

Chapter 2 – Initial Assistance Visits

- Our department is providing a service, the initial assistance visit for permit holders.
- I would like to meet with you at your facility/site and go over your permit with you. I would be happy to tour your facility with you.
- We hope to improve understanding of permit requirements, to enhance environmental compliance with the regulations that apply to your facility, and to provide resources for assistance. This is not an inspection, instead its to help you operate more effectively and to enhance Missouri's environment.
- If there is something that is serious, we'll address it at that time.
- The time the visit will take will vary with the complexity of the permit and volume of information. It could take 30 minutes or several hours.
- Are you interested?
 - If no, thank the facility for their time, adding they may contact you at any time with questions.
 - If yes...continue.
- Would you like to schedule a day and time that is convenient for you in the next couple of weeks?
- If you give me your e-mail address, I can forward some links to documents available on the Internet that may be helpful.
- If you could have the pertinent documents ready and available for the visit, such as your permit, it would be helpful.
- Is there another number I should use to call you if I am delayed the day of our visit?
- I want to be sure you have my name and phone number, in case something comes up and you need to change our day or time.
- Thank you. I'll see you on (the scheduled day and time).

Preparing for the IAV

- Review permit/registration/certification documents.
- Gather relevant technical bulletins and other information to leave with the permittee, including an example of an inspection checklist, if one exists.
- Locate the facility.
- Fill in as much information as possible on the IAV form.
- A service survey or other types of surveys may be conducted by leaving a survey with those receiving an IAV. Any needed directions will be provided to the regional offices.
- Cameras and sampling equipment are not taken on an IAV. This equipment may be kept in the vehicle in case an acute violation is found.
- Take the contact's phone number with you, so you can call in case you are delayed.

Conducting the IAV**Entrance meeting:**

- Provide a business card in lieu of state I.D., unless requested by facility.
- Describe the purpose and scope of the visit.
- Describe the response if an acute violation is found during the visit, and provide examples of an acute violation. If asked, provide the list of acute violations.
- Review the permit. Explain expectations of environmental compliance with permit requirements. Seek understanding and answer questions related to permit, certification or registration. Explain recordkeeping requirements.

Chapter 2 – Initial Assistance Visits

On-site observations or walk-through:

- Explain monitoring or sampling techniques.
- Provide assistance on operation and maintenance.
- Point out and explain areas of compliance and of concern, review best management practices.
- Use the IAV form to record any information. (Do not use an inspection checklist to record observations.)
- Discuss options for possible reduced level of compliance requirements.

Exit Meeting:

- Provide contact information.
- Provide technical bulletins or other information.
- Review findings, good and concerns.
- Review information recorded on IAV form and gather signatures. Signature indicates acknowledgement of an IAV. If the facility representative does not want to sign the IAV, that's okay. Be sure the representative's name is on the form for future reference.
- Encourage contact with the department with questions or to discuss problems.
- Leave the service survey with stamped envelope (if a survey is underway).
- Thank the facility operator.
- Describe what to expect during a future inspection. If available, leave a blank inspection checklist. Explain how the checklist is used during an inspection.

Discovery of an Acute Violation During the IAV

- Invoke inspection authority and proceed with inspection in accordance with Inspection and Enforcement procedures.
- If a hazardous substance release is observed or suspected, inform the potentially responsible party of their reporting requirements and call the Environmental Emergency Response Section spill reporting line (573-634-2436).
- If an acute violation is found, the inspector can return to the vehicle for cameras or other equipment needed to conduct a compliance inspection.

Discovery of a Non-acute Significant Violation

- Explain what the violation is, and why significant. Provide possible remedies
- Note the violation in the IAV form as an area of concern.
- If you have questions or are unsure what to do, make a note, explain it to the operator and state that you will get back with them. Call the appropriate enforcement staff in the program office for assistance.

Follow-up Actions

- Enter visit and other information into PTS.
- Place the IAV form with the facility file.
- Provide any information requested or other follow-up.
- Schedule an inspection in the near future if warranted.

The observations made during the IAV can help set the future inspection schedules. If a facility has many areas of concern, a follow-up inspection may be scheduled fairly soon. If the facility meets all or most permit requirements, then perhaps the next inspection can be later than usually scheduled.



2.4 ACUTE VIOLATIONS OR THOSE IMMINENTLY OR IMMEDIATELY HARMFUL TO THE ENVIRONMENT OR HEALTH

Drinking Water

- Any condition or practice that poses an immediate and serious threat to public health

Air Pollution

- Open burning of trade waste that poses an immediate threat or is in a dangerous location
- Operation of a major facility without a permit
- Releases of hazardous materials or substances not allowed by law

Hazardous Waste

- Visible evidence that hazardous waste is released onto the ground (soil)
- Hazardous waste is released to waters of the state
- Hazardous waste is burned on-site
- Ignition source is in area that stores ignitability characteristic hazardous waste
- Incompatible hazardous wastes are stored in the same container, tank or secondary containment structure, or hazardous wastes are not compatible with the containers that hold them

Land Reclamation

Open Pit Mines:

- Mining within 50' of a public road right of way or 25' + 1.5 the depth of unconsolidated material adjacent to the road right of way.
- Depositing sediment off of the permit area
- Failure to construct water impoundment dams of over 35' in height to Missouri Dam and Reservoir Safety Program standards per 10 CSR 22-3.020
- Discharging acid water from the permit area, pH <6.0

Solid Waste

- Burning of solid waste or tires
- Leachate leaving property or entering the waters of the state
- Illegal storage or disposal of infectious waste
- Landfill or transfer station receiving or accepting hazardous waste
- Putrescible waste on transfer station floor more than 24 hours

Water Pollution

- Any unpermitted outfall with an impact to waters of the state
- Any bypass of waste from a treatment facility with an impact to waters of the state
- Any fish kill
- No best management practices required by the permit

2.5 SIGNIFICANT NONCOMPLIANCE

Air Pollution

- Failure to obtain a PSD permit (and/or to install BACT), an NSR permit (and/or to install LAER or obtain offsets) and/or a permit for a major modification of either
- Violation of an air toxics requirement (i.e., NESHAP, MACT) that either results in excess emissions or violates operating parameter restrictions
- Violation by a synthetic minor of an emission limit or permit condition that affects the source's PSD, NSR or Title V status (i.e., fails to comply with permit restrictions that limit the source's potential emissions below the appropriate thresholds; refers only to pollutants for which the source is a synthetic minor. It is not necessary for a source's actual emissions to exceed the NSR/PSD/Title V thresholds.)
- Violation of any substantive term of any local, state or federal order, consent decree or administrative order
- Substantial violation of the source's Title V certification obligations, e.g., failure to submit a certification
- Substantial violation of the source's obligation to submit a Title V permit application (i.e., failure to submit a permit application within sixty (60) days of the applicable deadline)
- Violations that involve testing, monitoring, recordkeeping or reporting that substantially interfere with enforcement or determining the source's compliance with applicable emission limits.
- A violation of an allowable emission limit detected during a reference method stack test
- Clean Air Act (CAA) violations by chronic or recalcitrant* violators.
- Substantial violation of Clean Air Act Section 112(r) requirements (for permitting authorities that are not implementing agencies under section 112(r) program, limited to source's failure to submit Section 112(r) risk management plan)
- Major open burning. Any open burning other than untreated wood waste
- Any asbestos-related violation

**Chronic or recalcitrant violator* refers to a source that may stay below the HPV threshold but continually violates requirements to the extent that it is mutually agreed by the Region and the delegated agency that the source should be bumped up into HPV status.

Drinking Water

- Significant noncompliance as defined by any federal rule (total coliform rule, nitrate, chemical and radiation, surface water treatment, unfiltered systems, lead and copper, long term enhanced surface water treatment, disinfectants and disinfection byproducts, interim enhanced surface water treatment, consumer confidence, etc.)
- Any condition or practice that violates a state-imposed requirement and poses a serious threat to public health

Hazardous Waste

- Generated a regulated amount of hazardous waste but did not register as a hazardous waste generator
- Did not determine if the facility's waste was hazardous
- Did not use a licensed hazardous waste transporter to ship hazardous waste

Chapter 2 – Initial Assistance Visits

- Shipped hazardous waste to a treatment, storage, disposal or resource recovery facility that is not authorized to receive hazardous waste
- Operated as a treatment, storage or disposal facility without first obtaining a permit
- Stored hazardous waste for more than 90 days, or 180/270 if facility accumulates ≥ 1000 Kg
- Hazardous waste containers in poor condition
- Hazardous waste is stored in containers that are incompatible with the waste
- Open hazardous waste containers
- Storage of more than 1000 Kg of liquid hazardous waste without providing a containment system
- Accumulated more than 55 gallons of hazardous waste (one quart of acutely-hazardous wastes) in a satellite area
- Did not move satellite containers to storage area within three days of filling
- Did not minimize the possibility of an emergency
- Did not use the manifest system
- Did not determine if waste was restricted from land disposal
- Diluted waste to meet LDR treatment standards
- Did not manage used oil properly, or disposed of it into the environment
- Used oil containers in poor condition
- Leaking used oil containers
- Burn used oil other than facility's used oil or used oil from DIY'ers or exempt farmers
- Burned used oil in a space heater with design capacity $> .5$ million BTU/Hr
- Did not vent combustion gases from the heater to the ambient air
- Did not use licensed transporter to ship used oil or meet alternate requirements
- Did not obtain valid resource recovery certification for energy recovery or reclamation of hazardous waste
- Did not properly dispose of still bottoms or resource recovery residues
- Did not ensure that manifests were used for hazardous waste received from off-site
- Spill prevention controls on hazardous waste tanks were not operating
- Overfill prevention controls on hazardous waste tanks were not operating
- Uncovered hazardous waste tanks did not have sufficient freeboard to prevent overtopping
- Waste or treatment method was not compatible with tank
- Incompatible wastes were placed in same tank
- Ignitable or reactive wastes were not treated/stored in accordance with NFPA's buffer zone requirements
- Volatiles with vapor pressure > 78 mm @ 25 degrees Celsius were placed in open tanks
- Hazardous waste tanks were not properly cleaned and decontaminated upon closure or waste was not managed appropriately

Land Reclamation

When our staff personally encounters an active in-stream sand and gravel mining operation which is damaging a stream or creating a negative water quality impact by:

- Mining below the water line
- Leaving stockpiles of sand and gravel in the stream corridor
- Creating a discharge of pollutants in the stream

Chapter 2 – Initial Assistance Visits

- Channelization of the stream
- Stream bank intrusion

Solid Waste**Unpermitted Facilities:**

- Waste hauler dumping, burning, processing or burying waste
- Solid waste dumped in a sinkhole, streambank
- Contractor dumps
- Business trade waste dump
- Operating without a permit
- Recalcitrant, chronic or excessive violations

Permitted Facilities:

- Landfill gas exceedances in excess of regulated limits
- Unpermitted vertical or horizontal expansion of a landfill
- Leachate leaving property or entering waters of the state
- Illegal storage, transportation or disposal of infectious waste
- Putrescible waste on floor over 24 hours at a transfer station
- Landfill or transfer station receiving or accepting hazardous waste
- Recalcitrant, chronic or excessive violations

Waste Tire Issues**Unpermitted Facilities:**

- Collection center using an unpermitted hauler, processor, etc.
- A dump of over 500 tires
- Burning tires
- Operating without a permit
- Recalcitrant, chronic or excessive violations

Permitted Facilities:

- Burning tires
- Storage/fire regulations violated to a significant degree (TBD)
- Recalcitrant, chronic or excessive violations

Water Pollution

- Based on available records, the discharge or activity:
 - a) Exceeds the applicable monthly average effluent limits by a factor of 2.0 or exceeds the weekly average limits by a factor of 2.0 when there are no monthly average limits
 - b) Exceeds the applicable daily maximum effluent limits by a factor of 1.2
 - c) Is below the applicable daily minimum effluent limits by 20 percent or more for dissolved oxygen
 - d) Is outside the range of 5.0 to 10.0 for pH, except for sewage lagoons which exceed the upper limit due to biological activity
 - e) Exceeds a Fecal Coliform count of 5,000 colonies per 100 milliliters
- The discharge/activity violates the water quality standards, general criteria.
- There is a discharge without a permit and it can be documented that the responsible party was clearly informed in writing of the need for a permit.
- There is a discharge or release from an industry or institution which causes an interference with treatment processes or operation of the receiving treatment facility, or of its sludge handling and disposal



Chapter 2 – Initial Assistance Visits

processes, or passes through the treatment facility in quantities or concentrations which cause pollution or violates any condition of the applicable MSOP or effluent regulation.

- Bypassing of untreated sewage
- There is an overflow from a sanitary sewer system, particularly a dry weather bypass, and:
 - a) The overflow is caused by failure to implement standard operation and maintenance procedures, or
 - b) The overflow is due to inadequate system capacity in dry weather to handle the flow.

2.6 IAV Form

- [Initial Assistance Visit \(IAV\) form \[MO 780-1935\]](#) (12/05)